



CITY OF HAYWARD

AGENDA REPORT

Meeting Date 5/8/03
Agenda Item 2

TO: Planning Commission

FROM: Tim R. Koonze, Assistant Planner

SUBJECT: Appeal of the Planning Director's Denial of Variance No. PL-2003-0093 – Ralph Willkom (Applicant/Owner) – Request a Variance to Allow a Garage With a 15-foot Setback Where a 20-foot Setback Is Required.

The Property Is Located at 25158 Soto Road At the Northeast Corner of Soto Road and Frederic Avenue In a Single-Family Residential (RS) District

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) Guidelines, Section 15305, Class 5 (a), Minor Alteration in Land Use Limitations.
2. Deny the appeal and uphold the Planning Director's denial of the application subject to the attached findings.

DISCUSSION:

The parcel is located on the northeast corner of Soto Road and Frederick Avenue and is improved with single-story single-family home facing Soto Road. In 1982 the garage was legally converted into living area allowing the required parking to be located on the 25-foot long driveway.

The applicant is requesting to construct a detached garage measuring 24 feet by 24 feet with access from Frederic Avenue (The minimum dimensions for a two-car garage is an interior dimension of 19 feet deep by 20 feet wide). The applicant is proposing a 15-foot setback where the Zoning Ordinance requires at least 20 feet. The proposed garage meets all other setback and coverage requirements and, if constructed, would leave a 1262-square-foot usable rear yard that exceeds the minimum 1015 square-foot usable rear yard required for this parcel. The materials proposed for the garage, stucco with a composition shingle roof, are consistent with the design of the dwelling.

On March 12, 2003 the Planning Director denied this application. The denial recognized that the resulting 15-foot deep driveway would not be able to accommodate many vehicles and the variance would not be necessary if the applicant reduced the depth of the proposed garage by 5 feet. The applicant appealed the decision on March 28, 2003 pointing out that his proposal is consistent with the 15-foot front yard setbacks that the other homes have along Frederic Avenue.

The homes on Frederic Avenue were constructed in 1951 within a subdivision that utilized 15-foot front yard setbacks and, as such, are legal, non-conforming structures. The applicant contends that the proposed garage will face Frederic Avenue and should enjoy the same setback as the other homes on the street. If the homes on Frederic were constructed today they would be required to have a 20-foot setback. Field visits reveal that many of the vehicles parked in the 15-foot deep driveways overhang onto the public sidewalk creating unsafe, inconvenient conditions for pedestrians. Approval of the proposed variance would exacerbate the existing unsafe condition.

In order to approve a variance all three findings must be made:

1. There are special circumstances applicable to the property including size, shape, topography, location, or surroundings, or other physical constraints;
2. Strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity under the same zoning classification; and
3. The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the same vicinity and zone in which the property is situated.

It is staff's opinion that the property possesses no special circumstances or physical constraints that would justify the approval of a variance. The property is similar in shape and size to other properties in the area. If the proposed garage depth were reduced to 19 feet and moved back one foot, a 20-foot setback could be achieved while still providing a 1204-square-foot usable rear yard. Although there are other garages in the neighborhood that are setback only 15 feet, the criterion that there are special circumstances applicable to this property cannot be met.

If the Planning Commission were to find that allowing the requested variance is appropriate, findings must be made accordingly. Staff would recommend that a condition of approval require the applicant to remove the driveway on Soto Road, replace it with curb gutter and sidewalk to match the existing improvements, and install landscaping between the sidewalk and the converted garage. The chain link fence encompassing the front yard should be extended across the existing driveway opening and the walkway to the entry should be redesigned to provide access from Frederic Avenue.

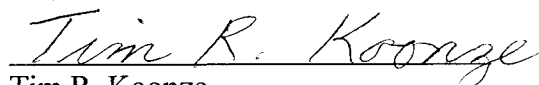
Environmental Review:

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15305, Class 5 (a), Minor Alterations of Land Use Limitations.


Public Notice:

On, February 14, 2003, a notice describing the variance application was mailed to all property owners and tenants within 300 feet of the subject property and to all interested parties. Two responses were received opposing the variance, voicing concerns that a 15-foot deep driveway is insufficient to park a vehicle and may cause vehicles parked in front of the garage to overhang into the public sidewalk. On April 25, 2003, a Notice of Public Hearing for the Planning Commission meeting was mailed to property owners and tenants within 300 feet of the subject property and to all interested parties.

Prepared by:


Tim R. Koonze
Assistant Planner

Recommended by:


Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area Map
- B. Findings for Denial
- Site Plan



FINDINGS FOR DENIAL
Variance No. PI-2003-0093
Ralph Willkom (Applicant/Owner)
April 10, 2003

- A. The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15305, Class 5 (a), Minor Alteration in Land Use Limitations.
- B. There are no special circumstances applicable to the property regarding this variance request in that the property is relatively flat and is of a size to accommodate a garage without requiring a variance.
- C. Approval of a variance to allow a 15-foot deep driveway would create an unsafe condition in that there is insufficient depth to accommodate a car. Vehicles parked in front of the garage may overhang into the public street right-of-way interfering with the public sidewalk causing an unsafe path of travel for pedestrians.